

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

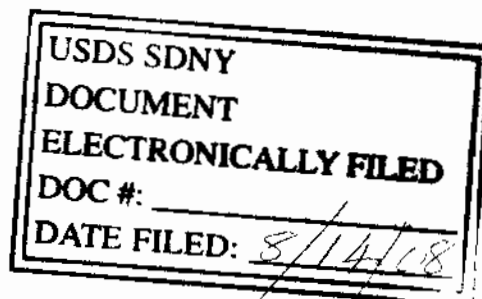
ORDER DENYING

**ORDER TO SHOW CAUSE
SEEKING MODIFICATION OF
THE TEMPORARY RESTRAINING
ORDER**

Upon the accompanying memorandum of law, and upon all prior motions and pleadings in this case, it is

✓ ORDERED that plaintiff Quantum Corporate Funding, Ltd. ("Quantum") show
✓ cause before a motion term of this Court at Room ____, United States Courthouse, 500
✓ Pearl Street, in the City, County and State of New York, on ____, 2008 at
____ o'clock in the ____ noon thereof, or as soon thereafter as counsel may be
heard. why an order should not be issued pursuant to Rules 26, 62(b) and 65 of the
Federal Rules of Civil Procedure modifying the August 8, 2008 temporary restraining
order staying enforcement of Quantum's Judgment against defendant Penn Lyon Homes
Corporation ("PLH") pending the disposition of PLH's motions to 1) vacate Quantum's
judgment against it and 2) for reconsideration of this Court's Order granting summary
judgment, to either waive the requirement that PLH post security or, in the alternative,
permit PLH an additional ten (10) days to post the bond; and it is further

ORDERED that, sufficient reason having been shown therefore, pending the
hearing of defendant PLH's application for a modification of the temporary restraining



order to waive the requirement that PLH post security in the amount of \$125,000 to stay enforcement of the judgment pending disposition of PLH's motions, pursuant to Rules 26, 62(b) and 65, the requirement that PLH post \$125,000 is temporarily waived; and it is further

ORDERED that, in the alternative, pending the hearing of defendant PLH's application for a modification of temporary restraining order that PLH is permitted an additional ten (10) days, until August 22, 2008 to post the mandated \$125,000 security for enforcing the judgment; and it is further

ORDERED that personal service of a copy of this order and annexed memorandum of law upon Counsel for Quantum, co-defendant National City Mortgage, Inc. on or before _____ o'clock in the _____ noon, on _____, 2008, shall be deemed good and sufficient service thereof.

Dated: New York, New York
August 12, 2008

United States District Judge

The Court declines to sign the order to show cause. First, applicant has not shown that plaintiff imminently threatens to seek to enforce the judgment or, if it were to do so, that applicant would suffer irreparable injury. Second, applicant has not complied with SDNY Civ. R. 6.1(d). Third, applicant admits that it "is a small company without substantial assets." Def. Mem. 67. Given that plaintiff has a judgment against defendant (which is presumptively valid), the Court sees no reason why plaintiff, rather than defendant, should bear the risks involved.

SO ORDERED

Lewis A. Kaplan
LEWIS A. KAPLAN, USDC